

REMARKS

Please consider the following remarks in reply to the Office Action mailed January 8, 2007. Applicants amended claim 10. Claims 1-10, 13, and 14 are pending and under examination.

Claim 10 was rejected under 35 U.S.C. 112, second paragraph, as lacking antecedent basis for the word "solvate." Claim 10 was amended to remove the word solvate, therefore the rejection should be withdrawn.

Claims 1-10, 13, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pujol et al. ("Pujol"). The Examiner asserts that compounds 6a, 6f, and 6k, as disclosed in Pujol, are structural homologs of the claimed compounds, where the claimed compound differ from the disclosed compounds based on the position of a substituent R3 on the phenyl ring. The disclosed compounds include a substituent in the 4 position of the phenyl ring whereas the claimed compounds require a substituent in the 2-position of the phenyl ring.

The Federal Circuit, recently held that "in cases involving new chemical compounds, it remains necessary to identify some reason that would have led a chemist to modify a known compound in a particular manner to establish prima facie obviousness of a new claimed compound." (See Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Slip. Opinion, June 28, 2007 p. 10. Emphasis added.) In support of the conclusion of obviousness, the Examiner broadly asserts that structural homologs are well known in the art to share the same property, and therefore it would have been obvious to prepare Applicants' claimed compounds. (See Office Action, page 3.) However, the law requires a more specific teaching or suggestion than that recited by the Examiner. Applicants submit that nothing in the reference would have led a chemist to modify the disclosed compound in the particular manner required to arrive at Applicants' claimed compound. Moreover, the Examiner has not provided a reason why a chemist would have made the particular modification of moving a substituent in the 4 position to the 2 position of a phenyl ring. Without such a teaching or suggestion in the art, a *prima facie* case cannot be maintained.

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Applicants submit the application is in condition for allowance, which action is requested.

The required amount of \$1020 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 06275-427US1/100684-1P US.

Respectfully submitted,

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